

Rec. No. 10078-B

RECORDATION NO. 10078-B
FILED 1423

June 26, 1986

JUN 30 1986 -1 50 PM

INTERSTATE COMMERCE COMMISSION

James Bayne
Interstate Commerce Commission
Washington, D.C. 20423

Re: Recordation of Amendment

Dear Mr. Bayne:

Enclosed for recordation under the provisions of 49 USC 11303(a) are the original and one copy of a First Amendment to Conditional Sale Agreement dated as of July 1, 1986. The Conditional Sale Agreement to which said Amendment relates is dated as of January 1, 1979, was filed in your office on February 9, 1979, and was given Recordation No. 10078. Said Amendment is a secondary document.

The names and addresses of the parties are:

Manufacturer:

Evans Transportation Company
c/o Evans Railcar Leasing
Company
2550 Golf Road
Rolling Meadows, IL 60008

Assignee of Manufacturer:

Continental Illinois National
Bank and Trust Company of
Chicago

Vendee:

LEF&C Leasing Company
Incorporated
1062 East Wood Street
P.O. Box 430
Clarion, PA 16214

The undersigned acted as special counsel in connection with the preparation of the enclosed document and has knowledge of the matter set forth therein.

Please return the original of said Amendment to Michael G. McGee, Esq., Chapman and Cutler, 111 West Monroe Street, Chicago, Illinois 60603. Also enclosed is a check in the amount of \$10.00 covering the required recording fee.

CT. Kennel
Quinley

A short summary of the enclosed secondary document to appear in the Index follows:

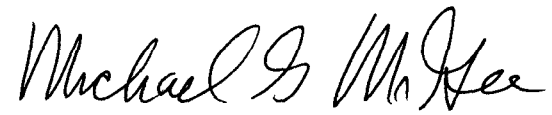
First Amendment to Conditional Sale Agreement between Continental Illinois National Bank and Trust Company of Chicago, 30 North LaSalle Street, Chicago, Illinois 60697, as Assignee of Evans Transportation Company and LEF&C Leasing Company Incorporated, 1062 East Wood Street, P.O. Box 430, Clarion, PA 16214, as Lessee, covering 115 General Purpose Boxcars.

If you have any questions, please feel free to contact me.

Sincerely,

CHAPMAN AND CUTLER

By



Michael G. McGee

MGM:jl
Enclosures

10078-B
JUN 30 1986 -1 50 PM

INTERSTATE COMMERCE COMMISSION

FIRST AMENDMENT TO CONDITIONAL SALE AGREEMENT

Dated as of July 1, 1986

between

CONTINENTAL ILLINOIS NATIONAL BANK AND TRUST
COMPANY OF CHICAGO,

as Assignee of Evans Transportation Company

as Assignee

and

LEF&C LEASING COMPANY INCORPORATED

as Vendee

FIRST AMENDMENT TO CONDITIONAL SALE AGREEMENT

THIS FIRST AMENDMENT TO CONDITIONAL SALE AGREEMENT, dated as of July 1, 1986 between CONTINENTAL ILLINOIS NATIONAL BANK AND TRUST COMPANY OF CHICAGO, as assignee (the "Assignee") under the Agreement and Assignment dated as of January 1, 1979 of the right, title and interest of EVANS TRANSPORTATION COMPANY, an Illinois corporation (the "Manufacturer") under the Conditional Sale Agreement and Equipment hereinafter referred to, and LEF&C LEASING COMPANY INCORPORATED, a Pennsylvania corporation (the "Vendee").

W I T N E S S E T H:

WHEREAS, the Manufacturer and the Vendee have heretofore executed and delivered that certain Conditional Sale Agreement dated as of January 1, 1979 (the "Conditional Sale Agreement") providing for the sale thereunder by the Manufacturer to the Vendee of certain equipment described in Schedule A attached to the Conditional Sale Agreement (the "Equipment"); and

WHEREAS, said Conditional Sale Agreement was filed for record in the Office of the Secretary of the Interstate Commerce Commission on February 9, 1979 and has been assigned recordation No. 10078; and

WHEREAS, the Vendee has agreed to restructure and re-finance certain of its obligations, including its obligation under the Conditional Sale Agreement, to the creditors listed on Schedule I attached hereto (the "Lenders") and concurrently to grant to such Lenders security interests and liens in and upon certain of its accounts; and

WHEREAS, the Assignee, as assignee of the right, title and interest of the Manufacturer in and to the Conditional Sale Agreement, and the Vendee desire to amend the Conditional Sale Agreement as hereinafter set forth:

NOW, THEREFORE, in consideration of ten dollars (\$10.00) and other good and valuable consideration, the receipt whereof is hereby acknowledged, the Assignee and the Vendee hereby covenant and agree that the Conditional Sale Agreement shall be deemed to be and it is hereby amended as follows:

SECTION 1. Section 3.3 of the Conditional Sale Agreement shall be amended in its entirety so that such Section henceforth shall read as follows:

"3.3. (a) The Vendee hereby acknowledges itself to be indebted to Continental Illinois National Bank and Trust Company of Chicago as assignee of the Manufacturer

(the "Assignee"), for the benefit of certain Lenders, in the amount of \$3,526,031 and hereby promises to pay to the Assignee such amount as follows:

(i) On July 31, 1986 and on the last day of each month thereafter an installment of principal in the amount of \$12,810 (the "Minimum Payment"); plus

(ii) On July 31, 1986 and on the last day of each January, April, July and October thereafter an installment of principal equal to the Contribution Payment as that term is hereinafter defined; plus

(iii) On June 30, 1996 a final installment in the amount equal to the entire principal and interest remaining unpaid hereunder as of said date.

(b) In addition, the Vendee agrees to pay to the Assignee interest on the outstanding principal from July 1, 1986 at the rate of nine percent per year, which interest shall not be added to the principal amount outstanding but shall accrue and upon payment in full of principal such interest will thereafter be paid to the Assignee in monthly installments equal to the amounts which would have been due pursuant to Section 3.3(a)(i) and (ii) above if such interest were to constitute additional principal.

(c) The term "Contribution Payment" whenever used in this Agreement shall mean an amount equal to (i) 90% of the remainder of Gross Cash Margin minus three times the Total Minimum Payment then owing by the Vendee, times (ii) a percentage which shall equal the portion of the Vendee's gross revenues (resulting from the utilization of all Equipment financed under the Lender Agreements) contributed by the Equipment in the most recent calendar quarter of the Vendee.

(d) The term "Gross Cash Margin" wherever used in this Agreement shall mean all cash received by the Vendee from any source in a calendar quarter, less all cash expenditures during such period for maintenance, taxes (including current income taxes if any), insurance, payments on the \$1,000,000 Note (the "Evans Note") of the Vendee dated May 28, 1982 issued to the Evans Railcar Leasing Company (as of the date of this agreement the aggregate amount of principal and interest unpaid on the Evans Note is \$890,746.79), management fees in an aggregate amount not to exceed \$90,000 during any 12-month period, less certain accrued amounts properly allocated to such quarterly period for items paid other than monthly or quarterly. Any insurance proceeds or

other sums paid to the Vendee as a result of the loss, damage or destruction of any item of Equipment or any such amounts received by the Vendee as a result of loss, damage or destruction of any equipment securing the Obligations shall not be included in Gross Cash Margin.

(e) The term "Other Lenders Minimum Payments" wherever used in this Agreement shall mean the sum of the minimum payments as such term is defined in the Other Lenders Agreements. The term "Total Minimum Payment" wherever used in this Agreement shall mean the sum of the Minimum Payment plus the Other Lenders Minimum Payments.

(f) The term "Conditional Sale Indebtedness" wherever used in this Agreement shall mean, the indebtedness of the Vendee pursuant to this Section 3.3."

SECTION 2. The Conditional Sale Agreement shall be amended by adding thereto Sections 8.3 and 8.4 which shall read in their entirety as follows:

"8.3. Within ten business days of the end of each month, the Vendee will provide to the Assignee and each Lender a financial report signed by its chief financial officer, which report will set forth with all reasonable detail the amount of the Minimum Payment and Other Lenders Minimum Payments. The report prepared at the end of each calendar quarter of the Vendee should also set forth with all reasonable detail the Gross Cash Margin, the Contribution Payment and the respective contributions to revenues of each equipment type during such calendar quarter.

8.4. Within 120 days after the end of each calendar year beginning with the calendar year ending December 31, 1986, the Vendee will provide to the Assignee an opinion from a firm of independent public accountants of recognized national standing to the effect that such accountants have reviewed the Vendee's computations of Contribution Payment required by Section 3.3 hereof and have concluded it to have been calculated in accordance with the Agreement or setting forth the adjustments, if any, which are necessary to make such computations in accordance with the terms of this Agreement."

SECTION 3. Section 9 of the Conditional Sale Agreement shall be amended by adding thereto an additional provision designated 9.3 which shall read in its entirety as follows:

"9.3. Anything contained in this Conditional Sale Agreement and particularly this Section 9 notwithstanding, the Vendee agrees that any Lender or the

Assignee, upon 15 days written notice to the Vendee, may at any time require the Vendee to deliver possession of such Equipment to the Lenders or their agents, provided, however, upon such delivery of all equipment by the Vendee to the party designated to receive such equipment, the Vendee's obligation to such Lenders hereunder shall be forgiven and terminated in consideration for the delivery of such Equipment. This Section 9.3 shall only be operative and the election of any such Lender or the Assignee to require delivery of Equipment pursuant to this Section 9.3 shall only take place upon the issuance of written notice from the Assignee to the Vendee, which notice shall be specifically designated as a "Section 9.3 Equipment Removal and Indebtedness Forgiveness Notice". The Vendee agrees that any sublease or assignment of the Equipment which would otherwise be permitted by this Conditional Sale Agreement shall if entered into by the Vendee after January 1, 1985, contain a legend on the first page thereof in all capital letters stating that such sublease is subject to the provisions of Section 9.3 of the Conditional Sale Agreement dated as of January 1, 1979, as amended, pursuant to which the Equipment subleased hereunder was financed and any sublease of such Equipment is subject to reclamation at the option of a creditor of LEF&C Leasing Company, Incorporated."

SECTION 4. (A) Section 15.1(a) of the Conditional Sale Agreement shall be amended to read in its entirety as follows:

"(a) The Vendee shall fail to pay in full any sum payable by the Vendee when payment thereof shall be due under Section 3 or 6 hereof, and such default shall continue for 10 days, provided, however, if the sole payment default of the Vendee is as a result of the failure of the Vendee to make full payment of the Minimum Payment, such event shall not constitute an Event of Default unless during a period of three calendar months the Vendee fails to pay at least \$210,000 as aggregate Minimum Payment plus Other Lender Minimum Payment for such period; or"

(B) Section 15.1 of the Conditional Sale Agreement shall be amended by adding thereto the following subsections (h), (i), (j) and (k) as follows:

"(h) The Vendee shall fail to pay in full any sum payable by the Vendee under any Lender Agreement, Lender Amendment, indenture or other instrument of the company as and when the same shall become due and payable; or

(i) Any default shall occur under the provisions of Section 9 of the Security Agreement-Trust Deed dated as

of July 1, 1986 between the Vendee and Security Trustee (the "Security Agreement"); or

(j) Any default shall occur in the observance or performance of any covenant or agreement contained in any Lender Agreement or Lender Amendment; or

(k) If any representation or warranty made by the Vendee herein, or made by the Vendee in any statement or certificate furnished by the Vendee in connection with the execution and delivery of the Lender Agreements, the Lender Amendments or the Security Agreement, is untrue in any material respect as of the date of the making thereof."

SECTION 5. Section 24 of the Conditional Sale Agreement shall be amended by adding thereto the following:

"The term "Lender", whenever used in this Agreement, means a creditor of the Vendee, named in Schedule I attached hereto, who is a party to one or more of the Lender Agreements.

The term "Lender Agreement(s)", whenever used in this Agreement means the Conditional Sale Agreement and/or one or more of the following:

(i) a Conditional Sale Agreement dated as of May 1, 1980 entered into by the Vendee with Greenville Steel Car Company (Greenlease Company Division) (now "Greenlease Inc.");

(ii) several Lease Agreements entered into by the Vendee with Greenlease, Inc. dated as of February 1, 1980, February 2, 1980 and April 1, 1980, respectively; and

(iii) a Railroad Car Lease Agreement dated October 2, 1978 between the Vendee and the Evans Railcar Leasing Company.

(Such Lender Agreements described in (i), (ii) and (iii) as amended by the Lender Amendments are herein called the "Other Lender Agreements".)

The term "Lender Amendment(s)", whenever used in this Agreement, means one or more of the agreements dated as of July 1, 1986, amending the Lender Agreements.

The term "Lender Group", whenever used in this Agreement, means the Lender or the group of Lenders to whom the Vendee is indebted under any one of the Lender Agreements, as amended.

The term "Obligations", whenever used in this Agreement, means the outstanding indebtedness of the Vendee under the Lender Agreements, as amended by the Lender Amendments.

The term "Security Trustee" shall mean The Savings & Trust Company of Pennsylvania as security trustee under the Security Agreement."

SECTION 6. The Conditional Sale Agreement shall be amended by designating the first paragraph in Section 25 subparagraph 25.1. and adding an additional subparagraph 25.2, to read as follows:

"25.2. The Vendee will pay all reasonable costs, charges and expenses of special counsel incident to the preparation, execution, acknowledgment, delivery, filing or recording of the Lender Amendments, the Intercreditor Agreement and the Security Agreement."

SECTION 7. The Conditional Sale Agreement shall be amended by adding thereto Section 30 which shall read in its entirety as follows:

"SECTION 30. Maintenance Fund.

The Vendee agrees to establish a Maintenance Account with the Security Trustee to be designated Vendee's "Maintenance Account-LEF&C Restructuring" (herein called the "Maintenance Account"). The Vendee agrees to make payments to the Maintenance Account and the Security Trustee agrees to administer such funds for the account of the Vendee as hereinafter set forth.

(a) In any calendar quarter in which the Gross Cash Margin exceeds three times the Total Minimum Payment the Vendee agrees to deposit in the Maintenance Account an amount equal to ten percent (10%) of the excess of Gross Cash Margin over three times the Total Minimum Payment.

(b) As long as no Default shall have occurred herein, the funds on deposit in the Maintenance Account shall be used by the Security Trustee to equalize the maintenance expenses of the Vendee. In any month in which the maintenance expense of the Vendee, as certified in writing by the President of the Vendee, exceeds one hundred twenty percent (120%) of the average monthly maintenance expense incurred by the Vendee during the previous six-month period, the Security Trustee shall permit the Vendee to withdraw funds from the Maintenance Account in

an amount not to exceed the amount by which the monthly maintenance expense exceeded one hundred twenty percent (120%) of such monthly average maintenance expense.

(c) At any time the funds on deposit in the Maintenance Account exceed \$100,000 the Security Trustee shall pay such excess and a portion of any deposits by the Vendee which would cause such Maintenance Account to exceed \$100,000 to the Lenders to reduce the Obligations of the Vendee in accordance with the provisions of Section 2.2 of the Intercreditor Agreement."

SECTION 8. The Conditional Sale Agreement shall be amended by adding thereto an additional section to be designated Section 31 and to read in its entirety as follows:

"SECTION 31. Remarketing and Re-Leasing.

31.1. Upon (i) termination of this Agreement or (ii) the election of the Assignee pursuant to Section 9.3 hereof to take possession of the Equipment; the Vendee agrees that upon receipt of a written request of any Lender it will act as a nonexclusive agent of such Lender for the purposes of arranging the disposition of the Equipment. As such agent, the Vendee shall:

(a) analyze the then current market for used railroad equipment of the same type and age as the Equipment;

(b) advise the Lender as to the then comparable profitability of a lease or sale of the Equipment and give its recommendations in connection therewith;

(c) subject to the terms hereof, use all reasonable diligence and dispatch to arrange for the sale of the Equipment to purchasers upon terms favorable to and agreeable to the Lender; and

(d) arrange all documentation, including consents and agreements of necessary parties, necessary to complete the sale of the Equipment.

Upon the sale of the Equipment by the Lender, such Lender shall compensate the Vendee for its services as sales agent with a fee equal to five percent (5%) of the proceeds received for such Equipment from the sales transaction arranged by the Vendee.

31.2. If at any time during the term of this Agreement a Lender Group believes that its Equipment could be leased to a lessee other than the Vendee at an annual rate which would exceed the earnings on such Equipment from service as directed by the Vendee, then the Vendee agrees to within three days after notice determine whether in fact additional earnings would be forthcoming and cooperate fully in the sublease of the cars at the direction of such Lender Group if greater earnings will result from such sublease. The Lender Group will receive as a direct payment from the Vendee the excess earnings realized as a result of the sublease over the sum of (i) the historical earnings of the Vendee in its utilization of such Equipment during the previous 12 months plus (ii) any documented future increase in earnings which the Vendee expects to receive from its continued leasing of the Equipment."

SECTION 9. The Conditional Sale Agreement shall be amended by inserting an additional section to be designated Section 32 and to read in its entirety as follows:

"SECTION 32. Payments to Affiliates. The Vendee will not make payments to any Affiliate without the prior written consent of the Assignee, except for (i) reimbursement for maintenance of equipment owned or leased by the Vendee, such reimbursement to be upon fair and reasonable terms no less favorable to the Vendee than would be obtained in a comparable arm's-length transaction with a Person other than an Affiliate, (ii) reimbursement for insurance premiums and taxes (including current income taxes, if any) paid by affiliate in its behalf, and (iii) an annual management fee not to exceed \$90,000 for the rendering of management services in the ordinary course of business pursuant to the reasonable requirements of the Vendee and upon fair and reasonable terms no less favorable to the Vendee than would be obtained in a comparable arm's-length transaction with a Person other than an Affiliate. Such reimbursements and fees shall not include service fees, handling fees or other overhead costs.

"Affiliate" shall mean any Person (i) which directly or indirectly through one or more intermediaries controls, or is controlled by, or is under common control with, the Vendee, (ii) which beneficially owns or holds 5% or more of any class of the Voting Stock of the Vendee or (iii) 5% or more of the Voting Stock (or in the case of a Person which is not a corporation, 5% or more of the equity interest) of which is beneficially owned or held by the Vendee or a subsidiary. The term "control" means

the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of a Person, whether through the ownership of Voting Stock, by contract or otherwise.

"Person" shall mean an individual, partnership, corporation, trust or unincorporated organization, and a government or agency or political subdivision thereof."

SECTION 10. The Conditional Sale Agreement shall be amended by inserting an additional section to be designated Section 33 and to read in its entirety as follows:

"SECTION 33. Forgiveness of Certain Indebtedness.
The Vendee represents and warrants to the Assignee and the Lenders that its indebtedness to Clarion River Corporation evidenced by the Note of the Vendee dated May 25, 1982, including accrued interest, has been terminated and the full amount of such indebtedness shall constitute a contribution by Clarion River Corporation to the capital accounts of the Vendee and evidence of such capital contribution has been provided to the Assignee."

SECTION 11. The Conditional Sale Agreement shall be amended by inserting an additional section to be designated Section 34 and to read in its entirety as follows:

"SECTION 34. Term of Agreement. Notwithstanding the other provisions of this Agreement, this Agreement shall be effective for a term of ten (10) years commencing on July 1, 1986."

SECTION 12. The Vendee hereby waives its rights under Section 6 of the Conditional Sale Agreement to apply any portion of a Casualty Payment to the replacement of any Item of Equipment suffering a Casualty Occurrence. All proceeds of insurance and sums constituting Casualty Payments shall be utilized to prepay indebtedness as provided in Section 6.2(i) of the Conditional Sale Agreement.

SECTION 13. Any and all notices, requests, certificates and other instruments executed and delivered after the execution and delivery of this First Amendment may refer to the "Conditional Sale Agreement dated as of May 1, 1980" without making specific reference to this First Amendment but nevertheless all such references shall be deemed to include this First Amendment unless the context shall otherwise require.

This First Amendment shall be construed in connection with and as part of the original Conditional Sale Agreement and all terms, conditions and covenants contained in the original Conditional Sale Agreement except as herein modified shall be and remain in full force and effect.

The First Amendment may be executed in any number of counterparts, each executed counterpart constituting an original but all together one and the same instrument.

IN WITNESS WHEREOF, the parties hereto have caused this instrument to be executed in their respective corporate names by their officers or representatives, thereunto duly authorized, and their respective corporate seals to be hereunto affixed, duly attested all as of the date first above written.

CONTINENTAL ILLINOIS NATIONAL
BANK AND TRUST COMPANY
OF CHICAGO, Assignee under
an Agreement and Assignment
dated as of January 1, 1979

By *Arnold W. Geyman*
Its VICE PRESIDENT

(Corporate Seal)

Attest:

Debra DeLaney
Its Trust Officer

LEF&C LEASING COMPANY INCORPORATED

By *Joseph L. Hartle*
Its PRESIDENT

(Corporate Seal)

Attest:

Samuel B. Cameron
ASST. Secretary

STATE OF ILLINOIS)
) SS
COUNTY OF COOK)

On this 2ND day of JUNE, 1986, before me personally appeared DEBRA M. DELANEY, to me personally known, who being by me duly sworn, says that she is a Trust Officer of CONTINENTAL ILLINOIS NATIONAL BANK AND TRUST COMPANY OF CHICAGO, that one of the seals affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors, and she acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

J. Wayne
Notary Public

(Seal)

My Commission Expires: **My Commission Expires July 31, 1988**

COMMONWEALTH OF PENNSYLVANIA)
) SS
COUNTY OF CLARION)

On this 26th day of JUNE, 1986, before me personally appeared Joseph L. Hartle, to me personally known, who being by me duly sworn, says that he is a President of LEF&C LEASING COMPANY INCORPORATED, that one of the seals affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors, and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

Marilyn L. Smekar
Notary Public

(Seal)

My Commission Expires:

MARILYN L. SMERKAR NOTARY PUBLIC
ELK TOWNSHIP, CLARION COUNTY
MY COMMISSION EXPIRES APRIL 2, 1987
Member, Pennsylvania Association of Notaries

SCHEDULE I

LENDERS

EVANS RAILCAR LEASING COMPANY
East Tower
2550 Golf Road
Rolling Meadows, Illinois 60008

GREENLEASE, INC. formerly
Greenville Leasing Company
Union Street
P.O. Box 751
Greenville, Pennsylvania 16125

COMMONWEALTH LIFE INSURANCE
COMPANY
c/o Capital Holding Corporation
P. O. Box 32830
Louisville, Kentucky 40232
Attention: Securities Department

PEOPLES LIFE INSURANCE COMPANY,
WASHINGTON, D.C.
c/o Capital Holding Corporation
P. O. Box 32830
Louisville, Kentucky 40232
Attention: Securities Department

HOME SECURITY LIFE INSURANCE
COMPANY
s/o Capital Holding Corporation
Louisville, Kentucky 40232
Attention: Securities Department

GEORGIA INTERNATIONAL LIFE
INSURANCE COMPANY
c/o Capital Holding Corporation
P. O. Box 32830
Louisville Kentucky 40232
Attention: Securities Department

NATIONAL STANDARD LIFE INSURANCE
COMPANY
c/o Capital Holding Corporation
P. O. Box 32830
Louisville, Kentucky 40232
Attention: Securities sept.

AMERICAN MUTUAL LIFE INSURANCE
COMPANY
1200 Liberty Building
418 - 6th Avenue Box 32830
Des Moines, Iowa 50307

FIRST SENECA BANK AND TRUST
COMPANY
248 Seneca Street
Oil City, Pennsylvania 16301

CENTURY LIFE OF AMERICA,
formerly Lutheran Mutual
Life Insurance Company
Heritage Way
Waverly, Iowa 50677

MUTUAL SERVICE LIFE INSURANCE
COMPANY
Two Pine Tree Drive
Arden Hills, Minnesota 55164

GUARANTEE MUTUAL LIFE
COMPANY
8721 Indian Hills Drive
Omaha, Nebraska 68114